



DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND
1333 ISAAC HULL AVENUE
WASHINGTON NAVY YARD DC 20376-2101

IN REPLY REFER TO

5720

Ser SEA 00A5/DON-NAVY-2017-009503F

September 27, 2017

Mr. Tyler Edwards
Jenner and Block
1099 New York Avenue, Suite 900
Washington, DC 20001-4412

SUBJECT: YOUR FREEDOM OF INFORMATION ACT CASE DON-NAVY 2017-009503

Dear Mr. Edwards:

This is a final response to your August 9, 2017, Freedom of Information Act (FOIA) request in which you seek all documents that demonstrate or tend to show that NAVSEA complied with FAR 11.501(b) when it established \$1000 daily rate for late delivery of COPA proposals for N00024-17-R-4403, N00024-16-R-4401 and N00024-17-R-4429.

Upon review of your request we conducted a thorough search of this Headquarters' files, specifically those located in the Contracts Directorate (SEA 02). Knowledgeable personnel with that office searched the identified contract files and learned that no such determination exists because the deductions outlined in the QASP are not a damage calculated in accordance with FAR 11.501 and are instead a deduction contained in the contract pursuant to FAR Subpart 46.4. Additionally, they also learned that N00024-16-R-4401 does not have a QASP.

If you believe that we did not conduct an adequate search, you may file an administrative appeal. Your appeal should contain an explanation as to why you believe our search was inadequate and must be received within 60 calendar days from the date of this letter.

If you file an appeal, attach a copy of this letter to the appeal and mark the appeal letter and the envelope FREEDOM OF INFORMATION ACT APPEAL. Mail the original appeal to the Department of the Navy, Office of the General Counsel, 1000 Navy Pentagon, Washington, DC 20350. Mail a copy of your appeal to the Commander, Naval Sea Systems Command, (SEA 00A5), 1333 Isaac Hull Avenue SE, Washington Navy Yard, DC 20376-1021.

Fees for processing your request were below the threshold for requiring payment; however, fees are assessed on a case-by-case basis and you may be charged fees on future requests.

If you have any questions concerning the processing of your request, please contact Ms. Ginger Dolan, at 202-781-3359.

Sincerely,

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DONNA M. HAMLIN

By direction

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received
8-10-17
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commercial
JENNER & BLOCK LLP

August 9, 2017

Tyler J. Edwards
Tel 202 637-6326
Fax 202 661-4917
tedwards@jenner.com

Commander
Naval Sea Systems Command
Attention: SEA CASS
1333 Isaac Hull Avenue, S.E.
Washington, DC 20376

NAVAL SEA SYSTEMS COMMAND
FREEDOM OF INFORMATION ACT OFFICE
REQUEST NO. DON NAVY 2017 001503
DATE RECEIVED: 8 10 17
DATE DUE: 9 10 17
2017 F 000263

Re: Freedom of Information Act Request

To whom it may concern:

This is a request under the Freedom of Information Act. 5 U.S.C. § 522.

Section 11.501(b) of the Federal Acquisition Regulation (FAR) provides that a liquidated damages rate "must be a reasonable forecast of just compensation for the harm that is caused by late delivery or untimely performance" of a contract requirement.

The Quality Assurance Surveillance Plans (QASPs) at Attachment 5 of solicitations N00024-17-R-4403, N00024-16-R-4401 and N00024-17-R-4429 each authorize the Navy to unilaterally deduct \$1,000 from the contract price for each day a Change Order Price Analysis (COPA) proposal is late or not provided in accordance with the criteria outlined in the QASP.

I request that a copy of all documents that demonstrate or tend to show that (1) NAVSEA complied with FAR 11.501 (b) when it established the \$1,000 per day rate for late delivery of COPA proposals in each of the solicitations identified above and (2) this rate is a reasonable estimate of the harm to the Government that is expected to occur each day that a contractor submits a COPA proposal late on each of the contracts to be awarded based on the three solicitations identified above.

In order to help you determine my status for the purpose of assessing fees, you should know that I am affiliated with a private business and am seeking information for use in the company's business.

I am willing to pay fees for this request up to a maximum of \$100. If you estimate that the fees will exceed this limit, please inform me first. Thank you for consideration of this request.

Commander
August 9, 2017
Page 2

Sincerely,

A handwritten signature in blue ink, appearing to read "Tyler J. Edwards", with a long, sweeping horizontal stroke extending to the right.

Tyler J. Edwards

TJE: